

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 19, 2013 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:16 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Bob Weger, Bible Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

Bob Morford, Ward One

Mayor Fitch stated there is an item for executive session in regards to the ongoing investigation and during this period of audience participation the council will not be taking any comments from the audience on this issue. He noted the email address for the Fidelis Group is on the overhead screen. He encouraged everyone to contact them and speak to them on an individual basis.

Jackson questioned if individual citizens who are not with the police department but would like to come forward and give input, would they have that right?

Mayor Fitch stated they would have the right to visit with Fidelis Group. Anyone can go to these investigators.

Jensen stated that will be discussed in executive session. Feedback from the council will be given to the investigators.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF NOVEMBER 5, 2013.

MOVED by Wells SECOND by Jackson to approve the minutes of November 5, 2013. AYE: Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Fitch stated item #16 will be stricken from the agenda.

Tanner requested item #7 be addressed separately.

MOVED by Burk SECOND by Jackson to approve the consent agenda with the exception of items #7 and #16. AYE: Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Stacey Dancy in the amount of \$654.39 (**Res. 13-68**) and Tony Salas in the amount of \$407.17 (**Res. 13-69**). Exhibits: Legal Opinion/Recommendation. Resolution No. 13-____.
2. Consider the following damage claim recommended for denial: Erika Sutter Swain in the amount of \$874.90. Exhibits: Legal Opinion/Recommendation.
3. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Kenneth Lindsey. Exhibits: **Resolution 13-70.**
4. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of Danny Hill in the Workers' Compensation Court, Case No. 2012-05775F. Exhibits: **Resolution 13-71.**
5. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Brent Davis. Exhibits: **Resolution 13-72.**
6. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Mack Cheatham. Exhibits: **Resolution 13-73.**
7. Consider approving an Agreement for Administrative Professional Services between Chelsie Hill and the City of Lawton to work as a fill-in Legal Assistant in the City Attorney's Office, authorize the Mayor and City Clerk to execute the Agreement, and authorize cancellation of the existing agreement with a fill-in Legal Assistant. Exhibits: Proposed Agreement is on file in the City Clerk's Office.

Tanner stated the funding source on this agreement is the Legal Services, Professional Services Account, and there are a lot of things being paid from this account, including the police department investigation. He questioned where the funds will come from to replenish this account.

Long stated that today he signed off on an internal transfer that will send a sufficient amount of dollars to this account.

Tanner questioned where that money came from.

Long stated it came from reprioritization of city projects.

MOVED by Burk SECOND by Tanner to approve an Agreement for Administrative Professional Services between Chelsie Hill and the City of Lawton. AYE: Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

8. Consider approving a lease with the Department of the Army on a tract of land located at 10th Street and Gore Boulevard, and authorize the Mayor and City Clerk to execute the lease. Exhibits: Lease is on file in the City Clerk's Office.
9. Consider an agreement allowing the Oklahoma Department of Transportation (ODOT) to enter upon City owed property to undertake a preliminary survey needed in designing construction plans for several intersection improvements along U.S. 277 and for possible changes to the interchange along I-44 and authorize the Mayor to execute the approval form. Exhibits: Letter from the Oklahoma Department of Transportation.
10. Authorize the City Attorney to file and pursue to conclusion a quiet title lawsuit, in the Comanche County District Court to be styled as City of Lawton v. Shane Duke, et al, and to undertake any further action needed to clear record title to the City-owned property located at 1415 SW "E" Avenue in order to facilitate the sale of this property to the Lawton Housing Authority. Exhibits: None.
11. Authorize the City Attorney to file and pursue to conclusion a foreclosure lawsuit in the Comanche County District Court to be styled as City of Lawton and Lawton Urban Homesteading Agency v. Amanda M. Quintania, et al, to obtain a deficiency judgment against Amanda M. Quintania, et al, and to undertake any further action needed to regain possession and ownership to the real property at 1513 NW Irwin Avenue. Exhibits: None.
12. Consider approving the annual agreement with Comanche County providing use of the City Lawton Library to residents of the county who do not live in the Lawton city limits and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Agreement on file in City Clerk's office.
13. Consider accepting a \$1,436.43 donation to the Library from the Friends of the Library to be designated for library material money and library programming. Exhibits: None.

14. Consider approving an agreement between the City of Lawton and Experience Works which will allow the City to serve as a host agency for Experience Works participants, and authorize the Mayor and City Clerk to execute. Exhibits: Host Agency Agreement, Certificate of Liability.
15. Consider authorizing the Fire Chief to submit a FY 2013 AFG application to the FEMA, to assist with acquiring cardiac monitors for the Lawton Fire Department. Exhibits: None.
16. Consider adopting a City Council resolution to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Dominion Development and Acquisitions, LLC. to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document. Exhibits: Exhibit A: Resolution 13-___. **STRICKEN FROM AGENDA.**
17. Consider approving the record plat for the Replat of Block 9, Eastlake Addition. Exhibits: Plat Map.
18. Consider approving the construction plat for Eastlake Addition, Part 3B subject to conditions. Exhibits: Plat Map.
19. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on: the 4200 block of SW Summit Ave for both the eastbound and westbound directions; and eastbound and westbound SE Elmhurst Lane at the intersection of SE 40th Street. Exhibits: **Resolution No. 13-74**, Traffic Commission Minutes and Traffic Issue Requests
20. Consider approving the City of Lawton Community Rating System Program for Public Information (PPI) to maintain reduced flood insurance premiums for Lawton residents through FEMA's National Flood Insurance Program. Exhibits: Program for Public Information.
21. Consider accepting a temporary easement from Charles E. Barger & Karen S. Barger for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
22. Consider accepting a temporary easement from Paul S. Brown & Eiiko O. Brown for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.

23. Consider accepting a temporary easement from Juanita L. Grooms FKA Juanita L. Guynn & Kenneth Grooms for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
24. Consider accepting a temporary easement from Brandon Doyle Jones & Ashley Jones for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
25. Consider accepting a temporary easement from Darnell Eugene William Jones & Susan Lampel-Jones for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
26. Consider accepting a temporary easement from Southwest Oklahoma Federal Credit Union, fka Lawton Teachers Federal Credit Union for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
27. Consider accepting a temporary easement from Rogers Turner for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
28. Consider accepting a temporary easement from George Viccica for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
29. Consider accepting a permanent sewerline easement and a temporary sewerline easement from Curtis L. & Christina M. Giles for right of way needed for the Nine Mile Creek Sanitary Sewer Interceptor Project#2008-2, authorizing the Mayor and City Clerk to execute the documents and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
30. Consider rejecting all bids on (RFPCL14-003) Management of Land Recreation Vehicle Park-Lake Ellsworth. Exhibits: Department recommendation.
31. Consider awarding (CL14-008) Southwest Ready Mix, Lawton OK, as the primary vendor and Atlas-Tuck Concrete Inc., Lawton, OK, as the secondary vendor. Exhibits: Department recommendation and Abstract of Bids.

32. Consider extending (CL12-016) Heavy Equipment Services and Parts to C.L. Boyd Co. Inc. of Oklahoma City, OK. Exhibits: Department recommendation.
33. Consider rejecting the only bid received on (CL14-009) Crane Services. Exhibits: Department recommendation.
34. Consider approval of payroll for the periods of October 28 – November 11, 2013.

NEW BUSINESS ITEMS:

35. Consider adopting an ordinance amending Section 5-1-118, Article 5-1, Chapter 5, Lawton City Code, 2005 by providing that if a dog or cat is impounded three (3) times within a twenty-four (24) month period, the animal may not be released from the shelter unless the owner or keeper signs an agreement, in addition to a deposit, to have an animal neutered or spayed within two (2) weeks of release and amending Section 5-4-404, Article 5-4, Chapter 5, Lawton City Code, 2005, by providing that no person shall ride or walk large animals on the private property of another without authorization from the private property owner to do so. Exhibits: Ordinance 13-__.

Jerry Ihler, Public Works Director, stated on August 13, 2013, the City Council adopted a number of changes to city code dealing with animal welfare. On August 27, 2013, the City Council created a council committee to review the changes and determine if other changes were needed. The proposed ordinance contains the additional changes the council committee believes are needed. Committee members were Jackson, Wells and Tanner. The ordinance amends Section 5-1-118, Article 5-1, Chapter 5, Lawton City Code, 2005 by providing that if a dog or cat is impounded 3 times within a 24 month period, the animal may not be released from the shelter unless the owner or keeper signs an agreement, in addition to posting a deposit, obligating the owner to have an animal neutered or spayed within 2 weeks of release. Existing code requires the owner to execute such an agreement and post a deposit if the animal has been impounded 2 times regardless of the amount of time between impoundments. This ordinance also amends Section 5-4-404, Article 5-4, Chapter 5, Lawton City Code, 2005, by providing that no person shall ride or walk large animals on the private property of another without authorization from the private property owner to do so.

Tanner requested that the committee not be dissolved because there were a few things that he wanted to discuss with staff.

Ihler stated Ms. Wilson would be happy to sit down and discuss any issues with committee members. He questioned if Councilmember Tanner would like to meet with staff first and then bring the committee together for a meeting.

Tanner stated he feels the council should go ahead and approve this ordinance and once he finishes reading the code he can get with the other committee members.

Ihler requested Tanner contact him when he is ready and a committee meeting will be scheduled.

MOVED by Wells SECOND by Tanner to adopt **Ordinance 13-37**, waive the reading of the ordinance, read the title only. AYE: Jackson, Bellino-Hall, Burk, Tanner, Haywood, Wells. NAY: Zarle. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 13-37

An ordinance pertaining to animals amending Section 5-1-118, Article 5-1, Chapter 5, Lawton City Code, 2005 by providing that if a dog or cat is impounded three (3) times within a twenty-four (24) month period, the animal will not be released unless the owner signs an agreement to have the animal neutered or spayed within two (2) weeks and amending Section 5-4-404, article 5-4, Chapter 5, Lawton City Code, 2005 by providing that no person shall ride or walk large animals on the private property of another without authorization from the private property owner to do so; providing for severability and establishing an effective date.

36. Consider adopting a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, by amending existing and establishing new fees pertaining to animal welfare services. Exhibits: Resolution 13-__.

Ihler stated this resolution will increase fees for a few services in order to cover the cost of providing those services. The resolution also establishes new adoption fees for certain types of animals and a new fee for non-residents who voluntarily release their animal to the animal shelter for adoption or to be euthanized. He stated one of the areas they corrected was related to an unaltered dog on the second impoundments which will be charged \$135. They revised that to the third time, now the first and second time is \$65 versus the \$135. The other changes were increases in costs to cover our costs as it relates to boarding fees per day. We were charging \$7 per day to board an animal and that just does not cover our costs, so that had been increased to \$15 per day. They did increase the cost to pick up a deceased animal at a residence to \$40. They actually added two items for non-residents to bring in an animal for release to be adopted is a fee of \$15. They felt that was fair since the citizens of Lawton pay for facilities to utilize this service. The other deals with fees for non-residents and owners and contract euthenization. It is \$30 for those inside the city limits and \$40 for non-residents.

Tanner questioned what the options were if a citizen cannot afford the \$40 to have a deceased animal picked up.

Ihler stated they could take it to the landfill at no cost.

Tanner questioned what if they didn't have a vehicle. He stated \$40 is a lot of money to some people and if they don't have it what are they supposed to do with this dead animal? He questioned if it is against city ordinance to bury your animal in your yard.

Ihler stated not that he is aware of.

Wells stated there are some things that come up on a case by case basis.

Ihler stated the people in the field can make a decision on certain cases.

Tanner questioned if they could keep the deceased animal pick up at \$20.

Ihler stated it would not cover the cost of going out and picking up the animal.

MOVED by Wells SECOND by Bellino-Hall to approve Resolution 13-75.

SUBSTITUTE MOTION by Tanner SECOND by Jackson to approve Resolution 13-75 but leaving deceased animal pick up fee at \$20.00 and \$5.00 for elderly. AYE: Jackson, Tanner, Zarle, Haywood. NAY: Bellino-Hall, Burk, Wells. MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Bellino-Hall, Burk, Haywood, Wells. NAY: Jackson, Tanner, Zarle. MOTION FAILED.

Mayor Fitch stated the resolution will have to come back at a future meeting when Councilmember Morford is in attendance.

37. Consider adopting an ordinance amending Section 17-3-4-335, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the requirements for qualified domestic relations orders. Exhibits: Ordinance 13-__.

Tim Wilson, Deputy City Attorney, stated the proposed ordinance deals with qualified domestic relations orders which are orders when a couple gets a divorce and the court addresses how to deal with their retirement benefits and it is applicable to our retirement system for our general employees. He stated on August 22, 2013 the Pension Trust met and discussed an issue with a QDRO (qualified domestic relations order) that was presented to the City for processing. As part of that discussion a recommendation was made to amend Code Section 17-3-4-335 to further define the requirements of QDROs under the retirement system – to include adding the requirement that the alternate payee's benefit be in the same form of payment as the form elected by the member subject to any such order. The proposed ordinance incorporates this amendment. At the October 24, 2013 Pension Trust meeting, the board recommended the proposed ordinance be presented to the Council for approval. He stated if approved, the ordinance will not go into effect until January 1, 2014.

MOVED by Wells SECOND by Tanner to adopt **Ordinance 13-38**, waive the reading of the ordinance, read the title only. AYE: Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 13-38

An ordinance pertaining to the personnel policies and procedures, amending Section 17-3-4-335, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the provisions concerning the requirements for qualified domestic relations orders, providing for severability and establishing an effective date of January 1, 2014.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Jackson stated he has received a request from a member of our voting public that we reconsider the scheduled time of the Christmas Parade because McArthur High School has a play off game at 4:00 p.m. on Saturday and they have asked that the parade be pushed back to at least 7:00 p.m.

Kim Shahan, Parks and Recreation Director, stated there are approximately 80 floats involved in this parade and coordinating this is a major task and he would not recommend making any changes.

Bellino-Hall stated the Institute for Quality Communities will hold a workshop for the City Council on Thursday, November 21st at 1:00 p.m. She stated it will be exciting to hear some outside comments about our city to give us a vision that we can have and how to get there.

Burk stated the Eye Candy awards will be held on December 5th. He stated the workshop on Thursday is very important for a vision of beautification and to figure out a way to have synergy.

Long stated the financial report should be to the council by end of day Friday. He stated expenses are on track and we are pacing below budget by about 3%.

The Mayor and Council convened in executive session at 6:59 p.m. and reconvened in regular, open session at 8:19 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

38. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending investigation of matters involving the Lawton Police Department, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #38.

MOVED by Wells SECOND by Burk that under the authority of Council Policy 1-6, I hereby move to appoint a council committee to consist of Jackson, Bellino-Hall, Burk and Wells to serve as council's liaison with the investigative team. AYE: Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

39. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2013-2014 between the Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #39. No action was taken.

There being no further business to consider, the meeting adjourned at 8:20 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK